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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,078	07/24/2001	Richard J. Bacon	19059.010	3350

28286 7590 07/15/2003

IP PATENTS  
FAEGRE & BENSON LLP  
1900 FIFTEENTH STREET  
BOULDER, CO 80302

EXAMINER
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SEMUNEGUS, LULIT

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 07/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/912,078

Applicant(s)

BACON, RICHARD J.

Examiner

Lulit Semunegus

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2002 & April 28, 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-10 and 34-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 34-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant has overcome the U. S. C. 112 rejections. In regards to claim 1, Applicant's arguments filed November 18, 2002 have been fully considered but they are not persuasive. Applicant argues that Bacon does not teach a thrust differential between the jet engines created by different power setting on one of two otherwise equally powered engines but by one engines simply being larger than the other. This argument is not persuasive in regards to claim 1 since claim 1 does not particularly teach that the jet engines are identical but merely states that the two engines are equally powered which Bacon teaches in col. 6, lines 49-56.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 7, 9-10, 34-36, 38-43 and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Bacon (5,480,107). Bacon teaches a twin-engine aircraft configuration, comprising: an airframe having a centerline along its longitudinal axis (fig. 4); a first jet engine (12) and second jet engine (14) both mounted within a plane vertical to the centerline (col. 6, lines 13-15); each of the first and second jet engines having a thrust adequate to takeoff, climb, cruise and land the aircraft at full gross weight without use of the other engine (col. 6, lines 44-49); one of the first and second jet engines

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having a maximum thrust greater than the maximum thrust of the other of the first and second engines (col. 6, lines 49-50), where the thrust differential created by a different power setting on one of two otherwise equally powered engines (col. 6, lines 49-56).

Bacon further teaches a method of operating the aircraft comprising the steps of:

providing a first jet engine having a thrust adequate to takeoff, climb, cruise and land the aircraft at full gross weight, and providing a second jet engine having thrust greater than the thrust of the first jet engine, whereby each of the first and second jet engines is a "main" engine; during take-off and climb, running the first jet engine and running the second jet engine; during ordinary operational cruise, running one of the first and second jet engine (col. 7, lines 47-67) and reducing the power of the other engine and where inherently the combined thrust of the first jet engine and the second jet engine is substantially within the range of two times to four times that of a single convention twin aircraft engine.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-6, 8, 37 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bacon (5,480,107) in view of applicant's own disclosure. Bacon does not expressly teach the first and second jet engine being substantially identical.

Applicant's own disclosure on page 2 and 3, paragraphs [0006] to [0008] teach that two

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engines of identical maximum thrust potential can be down-rated beneath its maximum thrust for expense purposes. At the time of the invention, it would have been obvious to one ordinary skilled in the art to have identical engines with down rated thrust as taught by applicant's own disclosure instead of Bacon's invention of different sized engines with different thrust to create similar/consistent fleet by reducing cost during engine maintenance or routine engine checks.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lulit Semunegus whose telephone number is (703) 306-5960. The examiner can normally be reached on Mon-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on (703) 306-4198. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

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July 11, 2003

Lulit Semunegus  
Examiner  
Art Unit 3641



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SUPERVISORY EXAMINER